

MEETING SUMMARY

NACEPT Superfund Subcommittee
September 23-24, 2002

Crystal Gateway Marriott
1700 Jefferson Davis Highway, Arlington, VA

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*Prepared by Meridian Institute
December 6, 2002*

NACEPT Superfund Subcommittee Meeting
September 23-24, 2002
Arlington, VA

The NACEPT Superfund Subcommittee held its second meeting September 23 and 24, 2002, in Arlington, Virginia. This document summarizes discussion topics and key decisions made during the meeting. The meeting was open to the public and audio recorded. Interested individuals and members of the press were present as observers. While the Subcommittee's agenda designated several opportunities for public comment, none were offered. A written transcript will be prepared and available through the Environmental Protection Agency's (EPA) Docket #SFUND-2002-0005. Lois Gartner, the Designated Federal Officer (DFO), is the primary point of contact for all public and press inquiries.

The objectives of the September 23-24, 2002 meeting were to:

- ? Provide an opportunity for the Subcommittee's Work Groups, formed at the panel's first meeting in June 2002, to report on the status of their activity and seek feedback from the full Subcommittee.
- ? Provide educational information on the current and projected status of the National Priorities List (NPL).
- ? Provide information on some key non-CERCLA cleanup programs.
- ? Provide a briefing from the Superfund Program on relevant activities occurring within the Agency.
- ? Review the Subcommittee structure and work plan; and
- ? Provide an opportunity for public comment.

Monday, September 23, 2002, 9:00 a.m. – 5:30 p.m.

Dr. Raymond Loehr, Chairman of the Subcommittee, opened the meeting and presented welcoming remarks. He introduced Lois Gartner, the DFO for the Subcommittee and John Ehrmann, the lead facilitator for the group, from Meridian Institute. Dr. Loehr summarized the Subcommittee's charge, its activity since the first meeting and the goals for the second meeting. The Introductory Statement was available as a handout and is included in Attachment A. Dr. Loehr asked each Subcommittee Member to briefly introduce him or herself.

Opening Remarks from the Assistant Administrator

Dr. Loehr introduced Marianne Horinko, Assistant Administrator for the Office of Solid Waste and Emergency Response (OSWER). Ms. Horinko thanked the Members for their continued service to the Agency as advisory committee members. She introduced EPA's One Cleanup Program and summarized EPA's expectations and vision for the Subcommittee.

Ms. Horinko explained that the “One Cleanup Program” represents EPA's vision for how all of the nation's cleanup programs can work together to meet their challenges and ensure that resources, activities, and results are more effectively coordinated and easily communicated to the public. Mike Shapiro, Deputy Assistant Administrator for OSWER and an EPA representative to the Subcommittee, has been designated as the lead senior manager for the initiative. Ellen Manges is the staff coordinator for the initiative. The Subcommittee is being asked to participate in the public evaluation of the initiative as part of its input on the future direction of EPA waste cleanup programs. A critical part of the One Cleanup Program is the development of new cross-program performance measurements. The Subcommittee’s analysis of Superfund performance metrics will be considered during the development of measures that can be used by all waste cleanup programs.

Ms. Horinko reaffirmed the importance of the Subcommittee’s work and reiterated her expectations. She is hoping the Subcommittee deliberations will generate ideas and recommendations about the future of the Superfund Program, such as:

- ? How should mega-sites be handled?
- ? How should waste sites be evaluated and prioritized for the NPL?
- ? How can the progress and results of our cleanups be better measured?
- ? How can complicated waste site problems be better explained to the public?

While the Agency will continue to adjust aspects of its policies in the interim, the Subcommittee’s advice will help to shape long-term policies.

Additional comments offered by the Assistant administrator included the following:

- ? This year only (19) sites were added to the NPL list, in comparison to 30-40 in some past years. The Agency does not intend for that decrease to indicate a slow-down. The listing numbers have fluctuated significantly year-to-year over the Superfund program’s history. The Agency does not have a goal regarding the ideal size or characteristics of (the NPL) universe. The provision of insights on those issues by the Subcommittee would be valuable to the Agency.
- ? The One Cleanup Initiative is being released for broad public comment in October. The Subcommittee is the first public forum at which the One Cleanup Initiative materials will be distributed. The Agency is very open to public input on the development of the Program Initiative.

Update from the NACEPT Committee

Wilma Subra, Executive NACEPT Council Vice-Chair, provided an update from the Executive NACEPT Council (NACEPT). Ms. Subra explained that Lois Gartner made a presentation on the Superfund Subcommittee to the full NACEPT council on July 18th, 2002. Overall, NACEPT is very supportive of the Subcommittee’s work.

Comments made by NACEPT members on the Subcommittee's work were:

Charles Jones, County Commissioner, Douglas County Kansas: It is extremely important for the Superfund program to take credit for voluntary cleanup initiatives. In Kansas there are few NPL sites but a large number of voluntary cleanup sites due to the Superfund laws.

Joe Boren, AIG Environmental: Expressed grave concerns that if the Subcommittee did not consider funding options, the work of the Subcommittee would not result in solutions to the Superfund situation. He felt the resources would be inadequate to address the cleanup of orphan mega sites.

Dorothy Bowers, Chairperson of the NACEPT Council, responded to the Superfund Subcommittee's concerns that the NACEPT Council would make changes to Subcommittee recommendations. She explained that the NACEPT Council has never changed recommendations in the past and does not intend to in the future. Rather, they have raised questions concerning Subcommittees' recommendations and have sought clarification or resolution of such questions prior to adopting a Subcommittee's report. A close working relationship between the Subcommittee and NACEPT Council throughout the life of the Subcommittee will facilitate addressing questions, issues and concerns as the work of the Subcommittee progresses.

The next meeting of the NACEPT is scheduled for the first week in December. At that time it may be appropriate to address or respond to additional questions or comments posed by Council Members.

Vicky Peters, Subcommittee Member, explained that the issue of funding assumptions has also been raised in workgroup discussions. She suggested that the Subcommittee could assume various levels of funding with corresponding recommendations. Marianne Horinko emphasized her desire for the Subcommittee to assume level funding in at least one of the alternatives included in their deliberations because that is the most likely funding scenario under which the Superfund program will operate in the foreseeable future.

Information Gathering Summary and Status

Elizabeth McManus from Ross & Associates Environmental Consulting, Ltd. summarized the information gathering efforts that have been undertaken since the June meeting. She circulated the outline of Information Needs and Sources (available on the public website) and explained that it was developed with input from individual Members of the Subcommittee. The organization of the information summary document draws from the logic flow developed by the Work Plan Work Group. The document is a tool to catalogue all the questions or issues raised, not to pass judgment on whether they are relevant to the Subcommittee's Charge. There may be items on the list of needs for which there is NOT information available. All the sources listed have been located and

are available to the Subcommittee on the Website or in hard copy. Additional sources that have been suggested, but have not yet been obtained are not included on the list. Dr. Loehr requested that Members be diligent about making sure that information requested is necessary for the Subcommittee to accomplish its charge.

Comments from the Subcommittee included the following:

- ? EPA can invite individuals with specific expertise (e.g. consulting engineers) to address missing information. The Subcommittee needs to fine-tune the questions so that the most relevant areas of expertise can be identified. The Subcommittee needs to make some choices about how to allocate the resources available. Consensus or collective agreement regarding that expertise is important.
- ? The Subcommittee should focus at a policy level so we are not asking for information that is unnecessary. There are a lot of issues that are important, but which ones will we be able to address as a Subcommittee?

Work Planning Work Group Effort

Vicky Peters and Michael Mittelholzer presented the Work Plan developed by the Work Group and explained how the draft document evolved from the Subcommittee Charge discussed at the June meeting. The document included a thematic outline or “logic flow” for the Subcommittee’s process and a proposed schedule. The logic reflected in the thematic summary was intended to reflect a variety of viewpoints while remaining neutral on conclusions. The Work Group attempted to remove biases perceived in the original Charge. They did not attempt to remove or pass judgment on anything from the laundry list of issues identified to date, though they acknowledged that paring it down may be necessary. Questions and data requests were integrated into the information gathering efforts so the group could track one list.

Everyone was supportive of the basic logic flow presented in the Work Plan. The following comments were offered by the Subcommittee:

- ? An explanation of what has happened with the mega site and performance measures focus needs to be added.
- ? The information needs could be integrated into this document if doing so does not make it confusing.
- ? There may be a parallel effort to address the policy options concurrently with the information gathering.
- ? The term “mega sites” was identified as confusing. One Subcommittee Member suggested focusing on sediment and mining sites since they make up the bulk of the “mega site” universe. The working definition of mega sites for this document – until defined otherwise – is based on cost: \$50 million or more spent on cleanup.
- ? A glossary of terms would be helpful.
- ? The development of a description of alternatives is an important next step.

- ? The Subcommittee could consider a laundry list of different types of sites and the programs that can address the unique needs of those types of sites. There are going to be a variety of sites that may need to be culled out – perhaps inexpensive sites, or, alternately, expensive sites – but there are cases that need to be dealt with differently.
- ? While the logic flow seems acceptable, the volume of information reflected in the scope of work outline is overwhelming.
- ? If there are important policy issues associated with the Charge but not necessarily called out in it, then the Subcommittee has been told that they have the flexibility to address them. The Work Plan was developed in the spirit of that sentiment.
- ? The path forward questions are the most ill-formed. These questions were not necessarily posed by EPA, but were raised during the June meeting or during subsequent deliberations of the work group. These questions were not judged or removed by the work group.
- ? There was a sentiment at the June meeting that the Subcommittee did not want to divide the NPL and mega sites.
- ? The Subcommittee will need to be thinking through the content of a final work plan product. The interim work plan is not sufficient. While it may be a little early in the Subcommittee's deliberations to finalize a work plan, this task needs to be done sooner rather than later.

Mike Mittelholzer reviewed the schedule portion of the Work Plan document and reviewed some of the issues considered by the workgroup: how well do we educate ourselves without getting bogged down in information collection mode? Can we make some macro level policy decisions in the interim? The Subcommittee discussed the need to clarify the Subcommittee's charge and the priority questions in order to start moving in the direction of being able to make decisions. Dr. Loehr reminded the Subcommittee that it is necessary to have draft recommendations in writing by May or June of next year in order to be able to meet goals of the group.

Summary of Internal Activities Relevant to the Work Plan

Mike Cook, Director of the Superfund Program, summarized Superfund Program activities relevant to the Subcommittee's charge. Key comments included the following:

Resources: The matter of resources is perhaps the most important issue to Superfund according to the press, Congress, and the Agency. How much money will be available is not clear. EPA has seen a budget shortfall for the Superfund Program for the first time this year. How EPA allocates Superfund resources is a factor in the types of listing policy issues being considered by this group.

NPL Listing Policy: EPA recently proposed 7 new sites and added 19 to the NPL. EPA has recently implemented interim changes to its NPL listing policy pending the advice of the Subcommittee. As part of that revised interim policy, the Agency will be looking more closely at alternatives to listing. The Agency issued NPL alternative guidance to enable potentially faster cleanups and to be sensitive to community and PRP concerns. The alternative guidance states that:

- NPL alternative sites must meet the criteria for listing and have PRPs who are willing to perform cleanups consistent with the National Contingency Plan (NCP) under enforceable agreements.
- State/Tribal involvement in the RI/FS, remedy selection, design and implementation is the same as at NPL sites.
- Response selection is the same.
- If a settlement agreement is not reached, EPA can list the site and proceed with enforcement; if there is non-compliance with the settlement, EPA can list the site and issue a UAO or take over the work.

Enforcement First: Consistent with the “Enforcement First” principle: 1) EPA will explore the enforcement route before committing fund money to a site; 2) EPA will continue to leverage PRP funding as much as possible; and 3) EPA expects to issue more unilateral orders in the near future.

Sediment Activities: The Agency has instituted a consultation process for sediment sites (many of them mega sites) to draw upon the expertise of a headquarters/regional advisory group. The group issues recommendations to the Remedial Project Managers (RPMs) about how they can better undertake their ongoing site investigations. Also, EPA issued draft guidance on contaminated sediment remediation. Currently, States and other Federal agencies are reviewing it and the Agency expects the guidance to be available for public review later this fall.

Funding Related Issues: The Agency is under increased scrutiny regarding how resource decisions are made. From the Program’s perspective, keeping in mind the limited funds available for the Program should be an important facet of the Subcommittee’s deliberations. There are many alternative futures the Subcommittee might assume for the Superfund Program. The Program is looking for advice on those futures. The Subcommittee’s insight on the pros and cons of some of the policy options relative to a range of funding alternatives will be valuable.

Measures of Success: The Superfund Program has recognized that EPA needs to be more proactive with Superfund data. The Agency is developing new measures of success, and wants the public, and its stakeholders, to understand better the Program’s process and its successes. The Subcommittee’s Measuring Performance Progress Work Group will help evaluate these new measures. The Program is looking forward to feedback on new ways of capturing and communicating progress.

A discussion among the Subcommittee Members and EPA representatives followed Mr. Cook's presentation. The discussion yielded the following additional points:

- ? There are many sites where responsible parties are engaged. But, the 30% or so of Fund-lead sites represent a large sum of funds that EPA will have to address over the next years. The Agency is projecting shortfalls well into the future. Next year, the Agency is projecting hundreds of millions of dollars in shortfall. The shortfall seems to increase rapidly over the next years and grows by more than \$200 million each year.
- ? The Fiscal Year 03 budget suggests level funding for next year.
- ? More cleanup money came from the State Revolving Funds program than the Brownfields Program.
- ? EPA is stepping up consideration of re-use for sites and could be working that into funding decisions.
- ? The value of the Superfund trust fund has been steadily diminishing because Congress has not renewed the tax supporting the trust fund since it lapsed in 1995. This lack of trust fund dollars does not necessarily affect the Superfund program because it is the amount of money appropriated to the Program that is critical, not the funding source. Congress can and does fund Superfund out of general revenues as well as the trust fund.

NPL issues

Several presentations were made to the Subcommittee regarding the NPL listing issues. Key Subcommittee questions (from the information gathering and work planning efforts) were used to frame the presentations. Presentation slides are included in Attachment B. Presentations included the following:

Kate Probst, Resources for the Future – “Superfund Past and Future” A briefing on issues from the RFF report relevant to the Subcommittee's Charge.

Dave Evans, EPA, OSWER –The NPL Listing Process

Paul Nadeau, EPA, OSWER – Funding Streams, Prioritization and Budget Issues

Discussion followed the presentations. The following points were raised:

- ? EPA does not want to add sites to the NPL that they do not have resources to address, and EPA does not currently have the resources to address every site that the states and tribes want to clean up. Similarly, EPA does not want to pull the rug out from under sites once they are on the list.
- ? EPA would like to look at Superfund as leverage to bring other cleanup programs to bear.
- ? There is a need to consider other cleanup programs more uniformly and systematically, through better documentation of how some sites go forward and some don't.
- ? Is it possible to consider ways of addressing a portion of the site at a time?

- ? *The Subcommittee has been told that there is a shortfall in funding for the Superfund Program in excess of 200 million dollars. Has there been a change in policy to reflect that shortfall?* In the face of a shortfall the Agency cannot spend money that doesn't exist. There is a need to address the human health risk using a variety of strategies so that EPA can allocate incremental funds more efficiently.
- ? There is a net increase in cost that results from spreading out the costs of some of these sites. It is going to cost more to finance them over a longer period of time.
- ? Thanks to the impacts of the "enforcement first" initiative, each of the sites may have funds left over from what was originally obligated. EPA tries to project those funds and is anticipating that they will continue to rise.
- ? It is possible that sites are not being listed because states do not have their 10% share, but it is a factor that is hard to measure directly. The state may say they don't want a site listed, but EPA does not know why.

Public Comment Period

Members of the public were invited to comment on their perspectives and concerns regarding Superfund and the work of the Subcommittee. No public comments were made.

Tuesday, September 24, 2002

Integrated Panel Presentations and Discussion of Cleanup Programs

Several presentations were made to the Subcommittee regarding other cleanup programs. Key Subcommittee questions (from the information gathering and work planning efforts) were used to frame the presentations. Presentation slides are included in Attachment B. Presentations included the following:

Mark Giesfeldt – *State Cleanup Programs – Wisconsin Case Study*

Sue Sladek, EPA – *State and Tribal Involvement in the Superfund Program*

Steve Heare, EPA Office of Solid Waste – *EPA interaction with States on RCRA*

Jason White – *Tribal issues associated with Superfund and other cleanup programs*

Discussion followed the presentations. The following points were raised:

- ? EPA does defer NPL caliber sites to the states but many of the sites documented as “state cleanups” (and funds) are not NPL caliber.
- ? If RCRA cannot take on more sites because it doesn’t have the authority, and the states cannot take more sites because of limited funds, then how much time should the Subcommittee be focusing on these alternatives? Perhaps they are not viable alternatives.
- ? There is a need to look at the quality of state programs in addition to the quantity. The Subcommittee needs to look at the standards that are being required by the states’ programs.
- ? There is a Tribal Superfund working group working with EPA. A database is being developed.
- ? It is hard to categorize tribes because they are each individual nations. It makes some of the issues complex.
- ? Tribes need to be working with other federal agencies – states and EPA. Quite a few concerns – still have a ways to go in integrating tribal concerns.
- ? Most Indian Tribes work under the treaties that include the protection of health and welfare. Those treaties address the authorities of each tribe. The legal history of the development of treaties would be relevant because it influences the tribal authorities and relationships under CERCLA.

One Cleanup Program

Ellen Manges provided an introduction to the One Cleanup Program and the plan for implementation currently being developed. She circulated the description of the plan to the Subcommittee for comment. With origins in the Resources for the Future report on “Superfund’s Future,” the One Cleanup Program is attempting to look at hazardous waste cleanup in the broader context - beyond Superfund to all cleanup programs. The vision of the Program is to get all the cleanup programs onto the same page, with joint planning and sharing. The draft document is available for public comment (on public website).

Measuring Program Performance Work Group

Mike Tilchin summarized the Measuring Program Performance Work Group's efforts to date. Its primary purpose is to review and comment on initial Agency ideas on measuring progress of the Superfund program. Three performance measures white papers are currently in early development stage within the agency:

- ? Population Risk Reduction Indicators
- ? Ecological Risk Reduction Indicators
- ? Land Reuse Performance Measures

The Population Risk Reduction white paper is available in initial draft for the work group to review. The other two white papers are anticipated later in the fall and early in 2003. The work group intends to provide interim, consultative feedback to the Agency in the early stage of performance measure development. The work group is committed to providing a "quick turnaround" on their response. Additionally, the Subcommittee charge allows for more comprehensive recommendations on performance measures to be provided to the Agency. Therefore, the work group is considering additional performance measure concepts while the Agency white papers are under preparation, including:

- Community and environmental justice
- Consistency among cleanups
- Cost measures
- Institutional controls
- Remediation and physical activity
- Tribal measures

Initial performance measure concepts have been developed by individual work group members to date and a review is underway. An in-person meeting has been scheduled to develop a work group plan. Work group tasks, milestones and definition of roles and responsibilities will be developed. Comments from the Subcommittee Members included the following:

- ? At the regional level, a lot of what EPA does depends on the perceptions of the communities – their opinions are key in defining success.
- ? Performance, in the eyes of the community, is all about deletion.
- ? Resources for the Future has received a grant that may overlap with task of this workgroup. Kate Probst will get more information to the Subcommittee and coordinate.

Public Comment Period

Members of the public were invited to comment on their perspectives and concerns regarding Superfund and the work of the Subcommittee. No public comments were made.

The public meeting adjourned on Tuesday at 12:15 p.m.

Post-Lunch Work Group Planning Meeting - Closed to the Public

During the working lunch, John Ehrmann proposed a plan for moving forward with the Subcommittee's activities. He emphasized the need to look at the policy options in front of the Subcommittee and start to address some of the critical issues in parallel with the information gathering efforts. As an agenda for the working session, he proposed a group discussion of the following work planning topics:

- ? Plan moving forward with working groups
- ? Revision to work plan document
- ? Meeting locations
- ? Meeting agenda structure
- ? Preparatory materials
- ? Other issues

The objectives for moving forward with working groups were summarized as follows:

- Continue information collection, but focus more on the analysis needed to support the development of recommendations. Link information gathering to key Subcommittee questions and priorities.
- Provide a logical progression through the issues.
- Lay the groundwork for the formulation of recommendations. Build options and alternatives for analysis.
- Get information in a form to work with and on which to base recommendations.
- Provide an opportunity for smaller working group activities.

The options for Work Groups were summarized as follows:

Focus #1: Cleanup Programs Work Group

Driving Question: What should the relationship be between NPL cleanups and other clean-up programs?

Work group members will be asked to assess the links and relationships between various cleanup programs and NPL cleanups, with a view towards understanding how these programs are currently used and what they offer, so that options for the future role of the NPL can be considered in the context of other cleanup programs. For example, the Subcommittee can consider what types of sites belong (or do not belong) on the NPL and what criteria should be used to list sites in the context of other cleanup programs.

In the cases where the work group identifies a link between a cleanup program and the Subcommittee's charge, the work group is asked to assess:

- What can the various programs clean up?
- Lessons learned about what has worked and what has not

- Scope (nature of sites being addressed)
- Funding (scale and sources)
- Public participation
- Cleanup standards
- Track record (what has been accomplished)
- Future projections (what is anticipated in coming years, what sites are not yet in the pipeline)

Additionally, the Work Group is asked to consider the relationship among programs such as continuity and incentives (how programs interact positively and negatively).

Cleanup programs to consider include:

- Other federal programs
- RCRA
- Brownfields
- State Programs
- Others (need to be far-reaching and creative in the exploration of alternatives)

Focus #2: Site Types Work Group

Goal: to summarize and coalesce available information to give the Subcommittee a set of basic assumptions about the body of sites that could be considered for the NPL in the future. Work group members will be asked to develop a sense of the size of the potential NPL universe, with a particular emphasis on the number and types of sites that may become mega site cleanups.

To accomplish this goal, work group members will be asked to consider the questions discussed below, with a view towards informing the Subcommittee's deliberations on options for the future role of the NPL given the number and types of cleanup sites that may be expected in the future, as discussed in the Subcommittee's charge. For example, the Subcommittee can consider what types of sites belong on the NPL and what criteria should be used to list them considering the universe of sites that need attention.

Consider the following:

- Characteristics/numbers
- Size
- Complexity (various indices)
- Cost
- Origin
- Explore "megasite" definitional issues
- What is coming through the "pipeline?"
- Tie to Key Questions in the charge/work plan relating to Megsites and NPL
- What kind of sites belong on the NPL?
- Criteria for listing sites

This Work Group was asked to give the full Subcommittee basic assumptions under which they should be operating – an order of magnitude to define the playing field.

Focus #3: How Does it Work Now?

Meridian and Ross will develop a briefing paper (no work group) to summarize 1) What is the decision making process for NPL-eligible sites? 2) A bit more elaboration on what Dave Evans and Paul Nadeau presented earlier in the Subcommittee's meeting; and 3) How are listing and funding allocation decisions made?

January Agenda

The focus for the January meeting was proposed as:

- Discussion of Cleanup Program and Site Types Work Groups policy exploration. The goal would be to present key findings that link to policy questions and the focus of the Subcommittee charge.
- Tribal presentation/discussion.
- Measuring Program Performance update.
- Time for the Site Types and Cleanup Program Work Groups to meet face-to-face.

The work group efforts are intended to build options and alternatives for recommendations to be considered by the Subcommittee as a whole. A set of alternatives and priorities will be developed that can be discussed at the January meeting. Each group will meet via conference call and hopefully in person once before the January meeting. Time during the January meeting agenda will be allocated for meetings of the work groups.

The Subcommittee Members agreed to the proposed work group structure and the focus of the next meeting Agenda. Members of the Subcommittee were asked to volunteer for participation in each of the work areas. Meridian staff agreed to prepare a summary of the next steps that resulted from the discussion about the next phase of Subcommittee activity and circulate it as soon as possible to all Subcommittee Members (prior to the meeting summary). A detailed summary of next steps was circulated to the Members following the meeting and is attached (Attachment C).

The Subcommittee engaged in a discussion of the process for engaging other perspectives into their deliberations. Comments included:

- The Subcommittee needs to hear from other interests (business and community) via presentations etc.
- The Subcommittee also needs to have some public/community involvement.
- The Work Groups should make recommendations if they feel it is necessary for the Subcommittee to hear from outside expert(s).

- It would be helpful to go to another location and invite the public to an evening session to get their opinions.
- Either in addition to or as a substitute for a public meeting, the Subcommittee can get input by reaching out to talk with communities and other interest groups about relevant issues and then bring that information back to the Subcommittee.
- The Subcommittee can target input – invite formal community advisory groups and Technical Assistance Grant (TAG) recipients to submit abstracts or position papers. (consider TAG recipient conference in February or the National Environmental Justice Advisory Committee (NEJAC) conference)
- Lois Gartner has tapes from the last Superfund Technical Assistance Grant Recipients Conference available for review.
- A health perspective is missing from this group. The Subcommittee needs a neutral health expert.

Agenda for January Subcommittee Meeting

The following tentative proposal was agreed to regarding the January Subcommittee meeting:

Day 1: Tuesday, January 7, 2003

Full Subcommittee discussion in the morning, Work Group meetings in the afternoon, possible public comment meeting in the evening.

Day 2: Wednesday, January 8, 2003

Full Subcommittee meeting in the morning, Work Group work planning in the afternoon. A tribal expert will be invited to address the Subcommittee at some point in the agenda.

Location suggestions:

Subcommittee Members supported the idea that some of their meetings be held outside of the Washington D.C. area in an effort to visit sites that could offer educational opportunities. The following suggestions were made:

- ? Aniston, Alabama
- ? Salt Lake City – Kennecott 's Facility
- ? New Bedford – mega site and sediment site
- ? Phoenix – Brownfields redevelopment site
- ? Chicago
- ? Denver
- ? Coeur d'Alene

Subcommittee Members discussed the characteristics of field visits that would be beneficial, including:

- ? A site with EJ issues
- ? A failed RCRA site
- ? A site with a significant revitalization component

- ? A site with a representative from the Subcommittee (positive and negative comments received)
- ? A site with an active community
- ? A site with Tribal issues
- ? Logistical convenience

Schedule

The schedule for the next Subcommittee meetings stands as decided at the June, 2002 meeting:

January 7-8, 2003

March 11-12, 2003

June 18-19, 2003

The meeting was adjourned at 3:30 p.m. on the afternoon of September 24th.

A complete list of Meeting Participants and Observers will be circulated to the Subcommittee Members and available along with the transcript.

ATTACHMENTS

A. Meeting Purpose Statement

B. Presentations

1. Wilma Subra – NACEPT Council briefing
2. Kate Probst, Resources for the Future – “Superfund Past and Future” A briefing on issues from the RFF report relevant to the Subcommittee’s Charge.
3. Dave Evans, EPA, OSWER – The NPL Listing Process
4. Paul Nadeau, EPA, OSWER – Funding Streams, Prioritization and Budget Issues
5. Mark Giesfeldt – State Cleanup Programs – Wisconsin Case Study
6. Sue Sladek, EPA – State and Tribal involvement in the Superfund Program
7. Steve Heare, EPA Office of Solid Waste – EPA interaction with States on RCRA (This presentation not available as an attachment)
8. Mike Tilchin - Measuring Program Performance Work Group Summary
9. Options for Organizing the Next Phase of Subcommittee Activities

C. Summary of Next Steps

Attachment A – Meeting Purpose Statement

NACEPT Superfund Subcommittee September 23-24, 2002 Meeting Introductory Statement

Summary of Charge

The overall intent of the NACEPT Superfund Subcommittee's efforts is to assist EPA in identifying the future direction of the Superfund program in the context of other federal and state waste and site cleanup programs. Specifically, the Subcommittee will review the relevant documentation and, to the extent possible, provide answers to questions that relate to: a) the role of the NPL, b) mega sites, and c) measuring program performance. The Subcommittee will operate as and be subject to the requirements of a Federal Advisory Committee.

It is expected that the Subcommittee activities will be accomplished by a series of meetings over about an 18-month period. It is anticipated that one or a series of consensus reports will result from the Subcommittee deliberations. However, where consensus cannot be reached, a written discussion of the different opinions of Subcommittee members is to be provided. As appropriate, the Subcommittee may also respond to issues in the form of "consultation," i.e., dialogue, rather than a formal written report.

Summary of June, 2002 meeting

A detailed summary of the June meeting was prepared, distributed to the Subcommittee members and is available on the EPA Superfund Subcommittee website (<http://www.epa.gov/oswer/SFsub.htm>) or by contacting Beth Huron at 970-513-8340, ext. 204. The following provides a brief overview of that meeting.

The NACEPT Superfund Subcommittee held its first meeting June 17 through 19, 2002 in Alexandria, Virginia. An orientation was provided to the Subcommittee Members on June 17, 2002. At that time, the members were briefed on their responsibilities as members of a Subcommittee to the National Advisory Committee on Environmental Policy and Technology (NACEPT) and the requirements of the Federal Advisory Committee Act (FACA). They were also provided an introduction to the collaborative process and group decision-making. The meetings on the 18th and 19th were open to the public. The main purposes of the meeting included the following:

- 1) Introduction of Subcommittee members;
- 2) Review of Subcommittee charge;
- 3) Discussion and agreement on Subcommittee operating procedures;
- 4) Discussion of Subcommittee member expectations;
- 5) Review of Subcommittee structure and work planning; and
- 6) Receive informational briefings from EPA personnel on issues relevant to the Subcommittee Charge.
- 7) Public comment.

As a result of the deliberations during the June 2002 meeting, the Subcommittee agreed to form two ad hoc work groups and initiate a parallel information gathering effort. The Measuring Program Progress Work Group was formed to work with the Agency to provide advice on its internal efforts to develop Superfund Program performance measures. The Work Plan Refinement Work Group was tasked with the responsibility for taking the policy questions included in the Subcommittee's Charge and refining them into a work plan to guide the group's activities during the duration of the Subcommittee's work. Additionally, the Members agreed to support an effort to develop a list of information needs and collect relevant information. This "fact-finding" phase was intended to help better educate Members about the "problems" and the appropriate focus of their effort. Individual Members volunteered to participate in the three efforts.

Summary of activity since last meeting

During the period of time between the June 2002 meeting and the September 2002 meeting, the Subcommittee members participated in ad hoc work group activities focusing on Measuring Program Progress and Work Plan Refinement. In parallel, Members have been supporting the efforts of staff to develop a comprehensive list of information needs and sources relevant to the Subcommittee's Charge. Each work group met via conference call at least twice, with sub-group activities implemented by volunteers in between calls. The results of the work group efforts will be summarized at the September meeting.

Statement of Purpose for this meeting with goals and objectives

Specifically, the September 23-24 meeting is intended to accomplish the following objectives:

Objectives of September 23rd and 24th meeting:

- ? Provide an opportunity for the Work Groups to report on the status of their activity and seek feedback from the full Subcommittee.
- ? Provide educational information on the current and projected status of the National Priorities List (NPL).
- ? Provide information on some key non-CERCLA cleanup programs.
- ? Provide a briefing from the Superfund Program on relevant activities occurring within the Agency.
- ? Review the Subcommittee structure and work plan; and
- ? Provide an opportunity for public comment.

Interactive discussion and questioning for the purpose of probing an issue and clarifying a point will be encouraged. As such, the comments made by Subcommittee Members at this and future meetings should neither be interpreted to reflect their current position on the subject under discussion nor their future position as it may evolve over the course of deliberation. Additionally, the comments of individual Subcommittee Members should not be interpreted as positions of the Subcommittee or the EPA.

The Subcommittee will deliberate thoroughly before developing consensus findings, conclusions or recommendations. Any report on of the opinion of the group will undergo rigorous review by all Subcommittee Members before it is considered final and transmitted to EPA.

This is an open session for public record. Interested individuals and members of the press have been invited to attend as observers. We will be entertaining questions from the floor during the designated times on the agenda. Lois Gartner, the Designated Federal Officer, will be available to assist reporters and other interested individuals who would like additional information. Her contact information is available on the Roster at the registration table.

In addition, a detailed summary of this September meeting will be prepared and made available to interested parties.

Attachment B – Presentations

Attachment B – Presentations available electronically as separate documents:

1. Wilma Subra – NACEPT Council briefing
2. Kate Probst, Resources for the Future – “Superfund Past and Future” A briefing on issues from the RFF report relevant to the Subcommittee’s Charge.
3. Dave Evans, EPA, OSWER – The NPL Listing Process
4. Paul Nadeau, EPA, OSWER – Funding Streams, Prioritization and Budget Issues
5. Mark Giesfeldt – State Cleanup Programs – Wisconsin Case Study
6. Sue Sladek, EPA – State and Tribal involvement in the Superfund Program
7. Steve Heare, EPA Office of Solid Waste – EPA interaction with States on RCRA (This presentation not available as an attachment)
8. Mike Tilchin - Measuring Program Performance Work Group Summary
9. Options for Organizing the Next Phase of Subcommittee Activities

Attachment C – Summary of Next Steps

NACEPT Superfund Subcommittee September 2002 Meeting

SUMMARY OF NEXT STEPS

At the September 23-24, 2002 meeting of the NACEPT Superfund Subcommittee, Members agreed to next steps for moving forward as defined below. A narrative meeting summary will be developed in addition to this summary of next steps.

WORKING GROUPS

Efforts of the Subcommittee members between the September 23/24, 2002 and the January 7/8, 2003 meetings will be concentrated on work group activities. Three work groups will be active:

- ? Program Work Group
- ? Site Characterization Work Group
- ? Measuring Program Progress Work Group

The work group efforts are intended to build options and alternatives for recommendations to be considered by the Subcommittee as a whole. A set of alternatives and priorities will be developed that can be discussed at the January meeting. Each group will meet via conference call and hopefully in person once before the January meeting. Time during the January meeting agenda will be allocated for meetings of the work groups.

Cleanup Program Assessment Work Group

Driving Question: What should the relationship be between NPL cleanups and other clean-up programs?

Work group members will be asked to assess the links and relationships between various cleanup programs and NPL cleanups, with a view towards understanding how these programs are currently used and what they offer, so that options for the future role of the NPL can be considered in the context of other cleanup programs. For example, the work group can consider what types of sites belong on the NPL and what criteria should be used to list sites to the NPL versus another cleanup program. (Note: Start by understanding the range of programs, and once armed with that information, start to develop a list of characteristics of a site that point to NOT putting it on the NPL. If a site needs cleanup, and it doesn't seem like a candidate for the NPL, then it needs to be handled by another program, so that knowledge of programs is essential.)

To support these activities, Meridian and Ross will work with EPA and Subcommittee members to identify and gather information on other cleanup programs as discussed below and as further defined by the workgroup.

Assess: 1) Other federal programs (RCRA, Brownfields, WRDA, mining); 2) State Programs; 3) Others. Subcommittee members agreed to be far-reaching and creative in the exploration of alternatives.

Criteria to be analyzed with respect to clean-up programs:

- ? Scope (Nature of sites being addressed. What can they clean up?)
- ? Funding (scale and sources)
- ? Public participation
- ? Cleanup standards
- ? Track record (what has been accomplished)
- ? Future projections (what is anticipated in coming years, what sites are not yet in the pipeline)
- ? Lessons learned about what has worked and what has not
- ? Continuity between programs
- ? Incentives – how programs interact (+ & -)
- ? Other criteria as discussed in the information needs outline and further developed by the work group.

Members signed up to date:

Sue Briggum, Grant Cope, Mark Giesfeldt, Michael Mittelholzer, Kate Probst, Mel Skaggs

Site Characterization Work Group

Goal: To summarize and coalesce available information to give the Subcommittee a set of basic assumptions about the body of sites that could be considered for the NPL in the future. Work group members will be asked to develop a sense of the size of the potential NPL universe, with a particular emphasis on the number and types of sites that may become mega site cleanups.

To accomplish this goal, work group members will be asked to consider the questions discussed below, with a view towards informing the Subcommittee's deliberations on options for the future role of the NPL given the number and types of cleanup sites that may be expected in the future, as discussed in the Subcommittee's charge. For example, the Subcommittee can consider what types of sites belong on the NPL and what criteria should be used to list them considering the universe of sites that need attention.

To support these activities, Meridian and Ross will work with EPA and Subcommittee members to identify and gather available information on site types.

Questions to be explored by the Sites Work Group:

- ? What types of sites are currently coming to EPA's attention for consideration for the NPL and how are these sites coming forward?

- ? What types of sites are eventually listed and why?
- ? What types of (and how many) sites are expected to come forward for consideration in the future?
- ? Besides cost, are there common characteristics across mega sites and, if so, what are they?
- ? Are there ways (other than cost) to distinguish sites of major concern?
- ? How many and what types of sites can be reasonably expected to be mega sites? Or, what is the potential universe of mega sites?
- ? What are the characteristics of sites currently on the NPL (or deferred from the NPL or addressed through removals or other methods) that make them best suited for cleanup under one versus another program?

Members signed up to date:

Jim Derouin, Dick Dewling, Glen Hammer, Tom Newlon, Ed Putnam, Catherine Sharp, Lexi Shultz, Mel Skaggs, Wilma Subra, Mike Tilchin

Measuring Program Progress

Efforts of the Measuring Program Progress Work Group will continue as defined by the group at the September meeting. They anticipate meeting in person at the beginning of November.

Members signed up to date:

Bill Adams, Sue Briggum, Grant Cope, Steve Elbert, Mark Giesfeldt, Dolores Herrera, Bob Hickmott, Aimee Houghton, Fred Kalisz, Ray Loehr, Ed Lorenz, Kate Probst, Dick Stewart, Mike Tilchin, Jason White

Overall Work Group Recommendations

It was agreed at the September meeting that each work group would allocate some time prior to the January meeting when members can do some initial “brainstorming” regarding potential packages of recommendations. The intent is to provide another avenue for the generation of potential policy recommendations to complement what will be forthcoming from the work groups.

INFORMATION GATHERING

The primary goal of the next phase of the information gathering effort will be to get information in a form with which to work and on which to base recommendations. Elizabeth will work with key Subcommittee members to continue focused information collection. Their efforts will concentrate more on analysis needed to support work group activities and development of policy options and recommendations, and will be linked to key questions/priorities identified by work groups. Initial efforts will focus in four areas:

NPL Issues

Meridian and Ross will work with Agency representatives to further clarify how the NPL listing process works now and how listing and funding allocation decisions are made.

The existing NPL briefing paper will be developed further to address the decision making process for NPL-eligible sites and elaborate on what Dave Evans and Paul Nadeau presented at the September 02 meeting.

Cleanup Programs

Gather information on key criteria of other state and Federal cleanup programs. Key features will be consistent with those being addressed by the Cleanup Program Assessment Work group and will start with the criteria listed above and discussed at the September 23-24, 2002 meeting wrap up and those listed on the information needs outline.

Funding Sources

Gather information on potential funding sources and funding models, especially funding sources and models that might be appropriate for mega sites. For example, under what circumstances are WRDA funds available?

Mega Sites

In coordination with the site types workgroup, gather information on the potential universe of mega sites. (i.e., how many and what types of mega sites might need cleanup in the future?)

WORK PLAN

Meridian will focus revisions to the work plan document on the schedule clarifications and goals identified during the September meeting. The outline is intended to be a living document. The work group will not continue to meet.

NEXT MEETING

Location: Meridian will be working with the Chair and the Agency to determine the location of the next several meetings based on the suggestions made by the Subcommittee Members. Meridian will notify Subcommittee members as soon as the decision is made.

Agenda: The Agenda for the next meeting will be structured to allow time for work groups to meet. Additionally time will be identified for field visits/panel discussions. Plenary discussion topics will focus on the work of the Program and Site working groups and policy exploration. The goal will be to present key findings from the work group deliberations that link to the policy questions and focus of the Subcommittee charge. Time will be allotted for a presentation from a Tribal representative and a report from the Measuring Program Progress Work Group.